

Statement in Opposition to
Senate Bill 243 - An Act Concerning Certificates of Merit

Judiciary Committee

March 7, 2012

The Connecticut Psychiatric Society submits this statement in strong opposition to Senate Bill 243 - An Act Concerning Certificates of Merit. For the past several years, we have come before this Committee to advocate for full medical malpractice reform and we still believe that there is a tremendous amount of work to be done. We support the Connecticut State Medical Society in its position that the entire system must be looked at and agree that the legislature should not act on mere pieces of it. To piecemeal the system with small changes would be to slowly undercut the entire system which is, at this point, delicate at best.

Currently, one of the most important aspects of the medical malpractice system is the certificate of merit as it works to protect both parties. The certificate of merit deters weak claims and reduce unnecessary lawsuits by requiring that that an attorney or claimant cannot file a medical malpractice lawsuit or apportionment complaint unless he or she has made a reasonable inquiry under the circumstances to determine that grounds exist for a good faith belief that the claimant received negligent medical care or treatment. The complaint must contain a certificate of merit which is a written, signed opinion from a "similar health care provider". The requirement of a "similar health care provider" is an important one but this bill seeks to weaken that by replacing it with a "qualified health care provider".

We do not understand why the amendments to this statute are necessary. A company that provides professional liability coverage for many psychiatrists in this state has informed us that there has been no problem finding appropriate experts in psychiatry.

Different medical specialties have different prevailing professional standards of care and practices. It would be unreasonable to think that differing medical specialties would be able to make a competent assessment of the standard of care that may or may not have been breached. In addition, to suppose that a health care provider in a nonmedical field would be able to comment on a possible breach of the medical standard of care is equally unreasonable. Psychiatrists are medical doctors. We attend medical school, complete residencies and in many cases become fellows. The training of others in the mental health field is different. Nurse psychotherapists attend nursing school, social workers attend social work school, and psychologists are trained in psychology, but none are trained in medicine. They cannot prescribe medicine, interpret brain scans or undertake many of the medical tasks that we do on a daily basis. While we all treat patients with mental illness, we are all trained and educated in vastly different manners. To assume that because we are all in the same field means that we would be able to comment on the standard of care that was supposedly breach is unreasonable.

We hope that this Committee will recognize how unwise this bill is and how important a complete review of the entire medical malpractice system is.

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